

**ASSEMBLY BILL**

**No. 1196**

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**Introduced by Assembly Member Blumenfield**

February 27, 2009

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An act to amend Sections 12650, 12651, 12652, and 12654 of the Government Code, relating to the False Claims Act.

LEGISLATIVE COUNSEL'S DIGEST

AB 1196, as introduced, Blumenfield. The False Claims Act.

Existing law, the False Claims Act, provides that a person who commits any one of several enumerated acts relating to the submission to the state or a political subdivision of the state a false claim for money, property, or services, as specified, shall be liable to the state or political subdivision for certain damages and may be liable for a civil penalty. Existing law also authorizes the Attorney General or the prosecuting authority of a political subdivision of the state to intervene in an action filed by a qui tam plaintiff under these provisions.

This bill would expand these provisions to include as a "claim" any record or statement used to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state or any political subdivision, and to require the imposition of a civil penalty on a person found liable for a violation. This bill would exclude from these provisions specified claims to the Commissioner of Insurance.

This bill would also authorize an intervening Attorney General or prosecuting authority of a political subdivision to file its own complaint in intervention or amend the complaint filed by the qui tam plaintiff, and modify the statute of limitations to commence on the date of discovery by the Attorney General or prosecuting authority of a political subdivision.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 12650 of the Government Code is  
2 amended to read:  
3 12650. (a) This article shall be known and may be cited as the  
4 False Claims Act.  
5 (b) For purposes of this article:  
6 (1) "Claim" includes any request or demand for money,  
7 property, or services made to any employee, officer, or agent of  
8 the state or of any political subdivision, or to any contractor,  
9 grantee, or other recipient, whether under contract or not, if any  
10 portion of the money, property, or services requested or demanded  
11 issued from, or was provided ~~by~~, *appropriated, administered,*  
12 *expended, or will be reimbursed directly or indirectly by* the state  
13 (hereinafter "state funds") or by any political subdivision thereof  
14 (hereinafter "political subdivision funds"). *"Claim" also includes*  
15 *any record or statement used to conceal, avoid, or decrease an*  
16 *obligation to pay or transmit money or property to the state or*  
17 *any political subdivision.*  
18 (2) "Knowing" and "knowingly" mean that a person, with  
19 respect to information, does any of the following:  
20 (A) Has actual knowledge of the information.  
21 (B) Acts in deliberate ignorance of the truth or falsity of the  
22 information.  
23 (C) Acts in reckless disregard of the truth or falsity of the  
24 information.  
25 Proof of specific intent to defraud is not required.  
26 (3) "Political subdivision" includes any city, city and county,  
27 county, tax or assessment district, or other legally authorized local  
28 governmental entity with jurisdictional boundaries.  
29 (4) "Prosecuting authority" refers to the county counsel, city  
30 attorney, or other local government official charged with  
31 investigating, filing, and conducting civil legal proceedings on  
32 behalf of, or in the name of, a particular political subdivision.  
33 (5) "Person" includes any natural person, corporation, firm,  
34 association, organization, partnership, limited liability company,  
35 business, or trust.

1 SEC. 2. Section 12651 of the Government Code is amended  
2 to read:

3 12651. (a) Any person who commits any of the following  
4 *enumerated acts in this subdivision shall have violated this article*  
5 *and* shall be liable to the state or to the political subdivision for  
6 three times the amount of damages ~~which the state or the political~~  
7 ~~subdivision sustains~~ because of the act of that person. A person  
8 who commits any of the following *enumerated* acts shall also be  
9 liable to the state or to the political subdivision for the costs of a  
10 civil action brought to recover any of those penalties or damages,  
11 and ~~may~~ *shall* be liable to the state or political subdivision for a  
12 civil penalty of not less than five thousand dollars (\$5,000) and  
13 not more than ten thousand dollars (\$10,000) for each ~~false claim~~  
14 *violation*:

15 (1) Knowingly presents or causes to be presented to an officer  
16 or employee of the state or of any political subdivision thereof, a  
17 false claim for payment or approval.

18 (2) Knowingly makes, uses, or causes to be made or used a false  
19 record or statement to get a false claim paid or approved by the  
20 state or by any political subdivision.

21 (3) ~~Conspires to defraud the state or any political subdivision~~  
22 ~~by getting a false claim allowed or paid by the state or by any~~  
23 ~~political subdivision~~ *commit a violation of this subdivision.*

24 (4) Has possession, custody, or control of public property or  
25 money used or to be used by the state or by any political  
26 subdivision and knowingly delivers or causes to be delivered less  
27 property than the amount for which the person receives a certificate  
28 or receipt.

29 (5) Is authorized to make or deliver a document certifying receipt  
30 of property used or to be used by the state or by any political  
31 subdivision and knowingly makes or delivers a receipt that falsely  
32 represents the property used or to be used.

33 (6) Knowingly buys, or receives as a pledge of an obligation or  
34 debt, public property from any person who lawfully may not sell  
35 or pledge the property.

36 (7) Knowingly makes, uses, or causes to be made or used a false  
37 record or statement to conceal, avoid, or decrease an obligation to  
38 pay or transmit money or property to the state or to any political  
39 subdivision.

1 (8) Is a beneficiary of an inadvertent submission of a false claim  
2 to the state or a political subdivision, subsequently discovers the  
3 falsity of the claim, and fails to disclose the false claim to the state  
4 or the political subdivision within a reasonable time after discovery  
5 of the false claim.

6 (b) Notwithstanding subdivision (a), the court may assess not  
7 less than two times and not more than three times the amount of  
8 damages which the state or the political subdivision sustains  
9 because of the act of the person described in that subdivision, and  
10 no civil penalty, if the court finds all of the following:

11 (1) The person committing the violation furnished officials of  
12 the state or of the political subdivision responsible for investigating  
13 false claims violations with all information known to that person  
14 about the violation within 30 days after the date on which the  
15 person first obtained the information.

16 (2) The person fully cooperated with any investigation by the  
17 state or a political subdivision of the violation.

18 (3) At the time the person furnished the state or the political  
19 subdivision with information about the violation, no criminal  
20 prosecution, civil action, or administrative action had commenced  
21 with respect to the violation, and the person did not have actual  
22 knowledge of the existence of an investigation into the violation.

23 (c) Liability under this section shall be joint and several for  
24 any act committed by two or more persons.

25 (d) This section does not apply to any controversy involving an  
26 amount of less than five hundred dollars (\$500) in value. For  
27 purposes of this subdivision, “controversy” means any one or more  
28 false claims submitted by the same person in violation of this  
29 article.

30 (e) This section does not apply to claims, records, or statements  
31 made pursuant to Division 3.6 (commencing with Section 810) of  
32 Title 1 or to workers’ compensation claims filed pursuant to  
33 Division 4 (commencing with Section 3200) of the Labor Code.

34 (f) This section does not apply to claims, records, or statements  
35 made under the Revenue and Taxation Code.

36 (g) *This section does not apply to claims, records, or statements*  
37 *for the assets of a person that have been transferred to the*  
38 *Commissioner of Insurance, pursuant to Section 1011 of the*  
39 *Insurance Code.*

1 SEC. 3. Section 12652 of the Government Code is amended  
2 to read:

3 12652. (a) (1) The Attorney General shall diligently  
4 investigate violations under Section 12651 involving state funds.  
5 If the Attorney General finds that a person has violated or is  
6 violating Section 12651, the Attorney General may bring a civil  
7 action under this section against that person.

8 (2) If the Attorney General brings a civil action under this  
9 subdivision on a claim involving political subdivision funds as  
10 well as state funds, the Attorney General shall, on the same date  
11 that the complaint is filed in this action, serve by mail with “return  
12 receipt requested” a copy of the complaint on the appropriate  
13 prosecuting authority.

14 (3) The prosecuting authority shall have the right to intervene  
15 in an action brought by the Attorney General under this subdivision  
16 within 60 days after receipt of the complaint pursuant to paragraph  
17 (2). The court may permit intervention thereafter upon a showing  
18 that all of the requirements of Section 387 of the Code of Civil  
19 Procedure have been met.

20 (b) (1) The prosecuting authority of a political subdivision shall  
21 diligently investigate violations under Section 12651 involving  
22 political subdivision funds. If the prosecuting authority finds that  
23 a person has violated or is violating Section 12651, the prosecuting  
24 authority may bring a civil action under this section against that  
25 person.

26 (2) If the prosecuting authority brings a civil action under this  
27 section on a claim involving state funds as well as political  
28 subdivision funds, the prosecuting authority shall, on the same  
29 date that the complaint is filed in this action, serve a copy of the  
30 complaint on the Attorney General.

31 (3) Within 60 days after receiving the complaint pursuant to  
32 paragraph (2), the Attorney General shall do either of the following:

33 (A) Notify the court that it intends to proceed with the action,  
34 in which case the Attorney General shall assume primary  
35 responsibility for conducting the action and the prosecuting  
36 authority shall have the right to continue as a party.

37 (B) Notify the court that it declines to proceed with the action,  
38 in which case the prosecuting authority shall have the right to  
39 conduct the action.

1 (c) (1) A person may bring a civil action for a violation of this  
2 article for the person and either for the State of California in the  
3 name of the state, if any state funds are involved, or for a political  
4 subdivision in the name of the political subdivision, if political  
5 subdivision funds are exclusively involved. The person bringing  
6 the action shall be referred to as the qui tam plaintiff. Once filed,  
7 the action may be dismissed only with the written consent of the  
8 court, taking into account the best interests of the parties involved  
9 and the public purposes behind this act.

10 (2) A complaint filed by a private person under this subdivision  
11 shall be filed in superior court in camera and may remain under  
12 seal for up to 60 days. No service shall be made on the defendant  
13 until after the complaint is unsealed.

14 (3) On the same day as the complaint is filed pursuant to  
15 paragraph (2), the qui tam plaintiff shall serve by mail with “return  
16 receipt requested” the Attorney General with a copy of the  
17 complaint and a written disclosure of substantially all material  
18 evidence and information the person possesses.

19 (4) Within 60 days after receiving a complaint and written  
20 disclosure of material evidence and information alleging violations  
21 that involve state funds but not political subdivision funds, the  
22 Attorney General may elect to intervene and proceed with the  
23 action.

24 (5) The Attorney General may, for good cause shown, move  
25 the court for extensions of the time during which the complaint  
26 remains under seal pursuant to paragraph (2). The motion may be  
27 supported by affidavits or other submissions in camera.

28 (6) Before the expiration of the 60-day period or any extensions  
29 obtained under paragraph (5), the Attorney General shall do either  
30 of the following:

31 (A) Notify the court that it intends to proceed with the action,  
32 in which case the action shall be conducted by the Attorney General  
33 and the seal shall be lifted.

34 (B) Notify the court that it declines to proceed with the action,  
35 in which case the seal shall be lifted and the qui tam plaintiff shall  
36 have the right to conduct the action.

37 (7) (A) Within 15 days after receiving a complaint alleging  
38 violations that exclusively involve political subdivision funds, the  
39 Attorney General shall forward copies of the complaint and written  
40 disclosure of material evidence and information to the appropriate

1 prosecuting authority for disposition, and shall notify the qui tam  
2 plaintiff of the transfer.

3 (B) Within 45 days after the Attorney General forwards the  
4 complaint and written disclosure pursuant to subparagraph (A),  
5 the prosecuting authority may elect to intervene and proceed with  
6 the action.

7 (C) The prosecuting authority may, for good cause shown, move  
8 for extensions of the time during which the complaint remains  
9 under seal. The motion may be supported by affidavits or other  
10 submissions in camera.

11 (D) Before the expiration of the 45-day period or any extensions  
12 obtained under subparagraph (C), the prosecuting authority shall  
13 do either of the following:

14 (i) Notify the court that it intends to proceed with the action, in  
15 which case the action shall be conducted by the prosecuting  
16 authority and the seal shall be lifted.

17 (ii) Notify the court that it declines to proceed with the action,  
18 in which case the seal shall be lifted and the qui tam plaintiff shall  
19 have the right to conduct the action.

20 (8) (A) Within 15 days after receiving a complaint alleging  
21 violations that involve both state and political subdivision funds,  
22 the Attorney General shall forward copies of the complaint and  
23 written disclosure to the appropriate prosecuting authority, and  
24 shall coordinate its review and investigation with those of the  
25 prosecuting authority.

26 (B) Within 60 days after receiving a complaint and written  
27 disclosure of material evidence and information alleging violations  
28 that involve both state and political subdivision funds, the Attorney  
29 General or the prosecuting authority, or both, may elect to intervene  
30 and proceed with the action.

31 (C) The Attorney General or the prosecuting authority, or both,  
32 may, for good cause shown, move the court for extensions of the  
33 time during which the complaint remains under seal under  
34 paragraph (2). The motion may be supported by affidavits or other  
35 submissions in camera.

36 (D) Before the expiration of the 60-day period or any extensions  
37 obtained under subparagraph (C), the Attorney General shall do  
38 one of the following:

1 (i) Notify the court that it intends to proceed with the action, in  
2 which case the action shall be conducted by the Attorney General  
3 and the seal shall be lifted.

4 (ii) Notify the court that it declines to proceed with the action  
5 but that the prosecuting authority of the political subdivision  
6 involved intends to proceed with the action, in which case the seal  
7 shall be lifted and the action shall be conducted by the prosecuting  
8 authority.

9 (iii) Notify the court that both it and the prosecuting authority  
10 decline to proceed with the action, in which case the seal shall be  
11 lifted and the qui tam plaintiff shall have the right to conduct the  
12 action.

13 (E) If the Attorney General proceeds with the action pursuant  
14 to clause (i) of subparagraph (D), the prosecuting authority of the  
15 political subdivision shall be permitted to intervene in the action  
16 within 60 days after the Attorney General notifies the court of its  
17 intentions. The court may authorize intervention thereafter upon  
18 a showing that all the requirements of Section 387 of the Code of  
19 Civil Procedure have been met.

20 (9) The defendant shall not be required to respond to any  
21 complaint filed under this section until 30 days after the complaint  
22 is unsealed and served upon the defendant pursuant to Section  
23 583.210 of the Code of Civil Procedure.

24 (10) When a person brings an action under this subdivision, no  
25 other person may bring a related action based on the facts  
26 underlying the pending action.

27 (d) (1) No court shall have jurisdiction over an action brought  
28 under subdivision (c) against a Member of the State Senate or  
29 Assembly, a member of the state judiciary, an elected official in  
30 the executive branch of the state, or a member of the governing  
31 body of any political subdivision if the action is based on evidence  
32 or information known to the state or political subdivision when  
33 the action was brought.

34 (2) A person may not bring an action under subdivision (c) that  
35 is based upon allegations or transactions that are the subject of a  
36 civil suit or an administrative civil money penalty proceeding in  
37 which the state or political subdivision is already a party.

38 (3) (A) No court shall have jurisdiction over an action under  
39 this article based upon the public disclosure of allegations or  
40 transactions in a criminal, civil, or administrative hearing, in an



1 investigation, report, hearing, or audit conducted by or at the  
2 request of the Senate, Assembly, auditor, or governing body of a  
3 political subdivision, or by the news media, unless the action is  
4 brought by the Attorney General or the prosecuting authority of a  
5 political subdivision, or the person bringing the action is an original  
6 source of the information.

7 (B) For purposes of subparagraph (A), “original source” means  
8 an individual who has direct and independent knowledge of the  
9 information on which the allegations are based, who voluntarily  
10 provided the information to the state or political subdivision before  
11 filing an action based on that information, and whose information  
12 provided the basis or catalyst for the investigation, hearing, audit,  
13 or report that led to the public disclosure as described in  
14 subparagraph (A).

15 (4) No court shall have jurisdiction over an action brought under  
16 subdivision (c) based upon information discovered by a present  
17 or former employee of the state or a political subdivision during  
18 the course of his or her employment unless that employee first, in  
19 good faith, exhausted existing internal procedures for reporting  
20 and seeking recovery of the falsely claimed sums through official  
21 channels and unless the state or political subdivision failed to act  
22 on the information provided within a reasonable period of time.

23 (e) (1) If the state or political subdivision proceeds with the  
24 action, it shall have the primary responsibility for prosecuting the  
25 action. The qui tam plaintiff shall have the right to continue as a  
26 full party to the action.

27 (2) (A) The state or political subdivision may seek to dismiss  
28 the action for good cause notwithstanding the objections of the  
29 qui tam plaintiff if the qui tam plaintiff has been notified by the  
30 state or political subdivision of the filing of the motion and the  
31 court has provided the qui tam plaintiff with an opportunity to  
32 oppose the motion and present evidence at a hearing.

33 (B) The state or political subdivision may settle the action with  
34 the defendant notwithstanding the objections of the qui tam plaintiff  
35 if the court determines, after a hearing providing the qui tam  
36 plaintiff an opportunity to present evidence, that the proposed  
37 settlement is fair, adequate, and reasonable under all of the  
38 circumstances.

39 (f) *Upon intervention, the state or political subdivision may file*  
40 *its own complaint in intervention or amend the complaint of a*

1 *person who has brought an action under subdivision (c) to clarify*  
2 *or add detail a the claim in which the state or political subdivision*  
3 *is intervening and to add any additional claim with respect to*  
4 *which the state or political subdivision contends it is entitled to*  
5 *relief. For statute of limitation purposes, any state or political*  
6 *subdivision pleading shall relate back to the filing date of the*  
7 *complaint of the person who originally brought the action, to the*  
8 *extent that the claim of the state or political subdivision arises out*  
9 *of the conduct, transaction, or occurrence set forth in the complaint*  
10 *of that person.*

11 ~~(f)~~

12 (g) (1) If the state or political subdivision elects not to proceed,  
13 the qui tam plaintiff shall have the same right to conduct the action  
14 as the Attorney General or prosecuting authority would have had  
15 if it had chosen to proceed under subdivision (c). If the state or  
16 political subdivision so requests, and at its expense, the state or  
17 political subdivision shall be served with copies of all pleadings  
18 filed in the action and supplied with copies of all deposition  
19 transcripts.

20 (2) (A) Upon timely application, the court shall permit the state  
21 or political subdivision to intervene in an action with which it had  
22 initially declined to proceed if the interest of the state or political  
23 subdivision in recovery of the property or funds involved is not  
24 being adequately represented by the qui tam plaintiff.

25 (B) If the state or political subdivision is allowed to intervene  
26 under paragraph (A), the qui tam plaintiff shall retain principal  
27 responsibility for the action and the recovery of the parties shall  
28 be determined as if the state or political subdivision had elected  
29 not to proceed.

30 ~~(g)~~

31 (h) (1) (A) If the Attorney General initiates an action pursuant  
32 to subdivision (a) or assumes control of an action initiated by a  
33 prosecuting authority pursuant to subparagraph (A) of paragraph  
34 (3) of subdivision (b), the office of the Attorney General shall  
35 receive a fixed 33 percent of the proceeds of the action or  
36 settlement of the claim, which shall be used to support its ongoing  
37 investigation and prosecution of false claims.

38 (B) If a prosecuting authority initiates and conducts an action  
39 pursuant to subdivision (b), the office of the prosecuting authority  
40 shall receive a fixed 33 percent of the proceeds of the action or

1 settlement of the claim, which shall be used to support its ongoing  
2 investigation and prosecution of false claims.

3 (C) If a prosecuting authority intervenes in an action initiated  
4 by the Attorney General pursuant to paragraph (3) of subdivision  
5 (a) or remains a party to an action assumed by the Attorney General  
6 pursuant to subparagraph (A) of paragraph (3) of subdivision (b),  
7 the court may award the office of the prosecuting authority a  
8 portion of the Attorney General's fixed 33 percent of the recovery  
9 under subparagraph (A), taking into account the prosecuting  
10 authority's role in investigating and conducting the action.

11 (2) If the state or political subdivision proceeds with an action  
12 brought by a qui tam plaintiff under subdivision (c), the qui tam  
13 plaintiff shall, subject to paragraphs (4) and (5), receive at least  
14 15 percent but not more than 33 percent of the proceeds of the  
15 action or settlement of the claim, depending upon the extent to  
16 which the qui tam plaintiff substantially contributed to the  
17 prosecution of the action. When it conducts the action, the Attorney  
18 General's office or the office of the prosecuting authority of the  
19 political subdivision shall receive a fixed 33 percent of the proceeds  
20 of the action or settlement of the claim, which shall be used to  
21 support its ongoing investigation and prosecution of false claims  
22 made against the state or political subdivision. When both the  
23 Attorney General and a prosecuting authority are involved in a qui  
24 tam action pursuant to subparagraph (C) of paragraph (6) of  
25 subdivision (c), the court at its discretion may award the  
26 prosecuting authority a portion of the Attorney General's fixed 33  
27 percent of the recovery, taking into account the prosecuting  
28 authority's contribution to investigating and conducting the action.

29 (3) If the state or political subdivision does not proceed with an  
30 action under subdivision (c), the qui tam plaintiff shall, subject to  
31 paragraphs (4) and (5), receive an amount that the court decides  
32 is reasonable for collecting the civil penalty and damages on behalf  
33 of the government. The amount shall be not less than 25 percent  
34 and not more than 50 percent of the proceeds of the action or  
35 settlement and shall be paid out of these proceeds.

36 (4) If the action is one provided for under paragraph (4) of  
37 subdivision (d), the present or former employee of the state or  
38 political subdivision is not entitled to any minimum guaranteed  
39 recovery from the proceeds. The court, however, may award the  
40 qui tam plaintiff those sums from the proceeds as it considers

1 appropriate, but in no case more than 33 percent of the proceeds  
2 if the state or political subdivision goes forth with the action or 50  
3 percent if the state or political subdivision declines to go forth,  
4 taking into account the significance of the information, the role of  
5 the qui tam plaintiff in advancing the case to litigation, and the  
6 scope of, and response to, the employee's attempts to report and  
7 gain recovery of the falsely claimed funds through official  
8 channels.

9 (5) If the action is one that the court finds to be based primarily  
10 on information from a present or former employee who actively  
11 participated in the fraudulent activity, the employee is not entitled  
12 to any minimum guaranteed recovery from the proceeds. The court,  
13 however, may award the qui tam plaintiff any sums from the  
14 proceeds that it considers appropriate, but in no case more than 33  
15 percent of the proceeds if the state or political subdivision goes  
16 forth with the action or 50 percent if the state or political  
17 subdivision declines to go forth, taking into account the  
18 significance of the information, the role of the qui tam plaintiff in  
19 advancing the case to litigation, the scope of the present or past  
20 employee's involvement in the fraudulent activity, the employee's  
21 attempts to avoid or resist the activity, and all other circumstances  
22 surrounding the activity.

23 (6) The portion of the recovery not distributed pursuant to  
24 paragraphs (1) to (5), inclusive, shall revert to the state if the  
25 underlying false claims involved state funds exclusively and to  
26 the political subdivision if the underlying false claims involved  
27 political subdivision funds exclusively. If the violation involved  
28 both state and political subdivision funds, the court shall make an  
29 apportionment between the state and political subdivision based  
30 on their relative share of the funds falsely claimed.

31 (7) For purposes of this section, "proceeds" include civil  
32 penalties as well as double or treble damages as provided in Section  
33 12651.

34 (8) If the state, political subdivision, or the qui tam plaintiff  
35 prevails in or settles any action under subdivision (c), the qui tam  
36 plaintiff shall receive an amount for reasonable expenses that the  
37 court finds to have been necessarily incurred, plus reasonable costs  
38 and attorney's fees. All expenses, costs, and fees shall be awarded  
39 against the defendant and under no circumstances shall they be  
40 the responsibility of the state or political subdivision.

(9) If the state, a political subdivision, or the qui tam plaintiff proceeds with the action, the court may award to the defendant its reasonable attorney's fees and expenses against the party that proceeded with the action if the defendant prevails in the action and the court finds that the claim was clearly frivolous, clearly vexatious, or brought solely for purposes of harassment.

~~(h)~~

(i) The court may stay an act of discovery of the person initiating the action for a period of not more than 60 days if the Attorney General or local prosecuting authority show that the act of discovery would interfere with an investigation or a prosecution of a criminal or civil matter arising out of the same facts, regardless of whether the Attorney General or local prosecuting authority proceeds with the action. This showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the Attorney General or local prosecuting authority has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

~~(i)~~

(j) Upon a showing by the Attorney General or local prosecuting authority that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the Attorney General's or local prosecuting authority's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, including the following:

- (1) Limiting the number of witnesses the person may call.
- (2) Limiting the length of the testimony of the witnesses.
- (3) Limiting the person's cross-examination of witnesses.
- (4) Otherwise limiting the participation by the person in the litigation.

~~(j)~~

(k) The False Claims Act Fund is hereby created in the State Treasury. Proceeds from the action or settlement of the claim by the Attorney General pursuant to this article shall be deposited into this fund. Moneys in this fund, upon appropriation by the Legislature, shall be used by the Attorney General to support the

1 ongoing investigation and prosecution of false claims in furtherance  
2 of this article.

3 SEC. 4. Section 12654 of the Government Code is amended  
4 to read:

5 12654. (a) A civil action under Section 12652 may not be filed  
6 more than three years after the date of discovery by the official of  
7 ~~the state or political subdivision charged with responsibility to act~~  
8 ~~in the circumstances~~ *Attorney General or prosecuting authority*  
9 *with jurisdiction to act under this article* or, in any event, ~~no~~ *not*  
10 more than 10 years after the date on which the violation of Section  
11 12651 ~~is~~ *was* committed.

12 (b) A civil action under Section 12652 may be brought for  
13 activity prior to January 1, 1988, if the limitations period set in  
14 subdivision (a) has not lapsed.

15 (c) In any action brought under Section 12652, the state, the  
16 political subdivision, or the qui tam plaintiff shall be required to  
17 prove all essential elements of the cause of action, including  
18 damages, by a preponderance of the evidence.

19 (d) Notwithstanding any other provision of law, a guilty verdict  
20 rendered in a criminal proceeding charging false statements or  
21 fraud, whether upon a verdict after trial or upon a plea of guilty  
22 or nolo contendere, except for a plea of nolo contendere made  
23 prior to January 1, 1988, shall estop the defendant from denying  
24 the essential elements of the offense in any action which involves  
25 the same transaction as in the criminal proceeding and which is  
26 brought under subdivision (a), (b), or (c) of Section 12652.

27 (e) Subdivision (b) of Section 47 of the Civil Code shall not be  
28 applicable to any claim subject to this article.